

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MICHAEL J. FULLER,

Plaintiff,

-v-

**REMINGTON HYBRID SEED
COMPANY, INC.,**

Defendant.

Case No. 03:07-CV-302

Judge Thomas M. Rose

**ENTRY AND ORDER OVERRULING DEFENDANT'S MOTION TO
ALLOW COUNSEL PRO HAC VICE (Doc. #29)**

The Court has once denied pro hac vice admission of attorney Donald W. Shelmon ("Shelmon"). (Doc. #12.) In doing so, the Court found that ERISA applies and ERISA may forbid certain actions, even though these actions may have been thought to have been taken in the interest of negotiation. (Id.) Shelmon is clearly the author of correspondence regarding a denial of ERISA claims and may have advised others regarding whether Fuller should continue to receive any ERISA benefits to which he was entitled. (Id.) Shelmon was denied admission pro hac vice subject to a renewed request should circumstances change in the future. (Id.)

Sheldon now seeks admission arguing that his deposition testimony "completely and conclusively established that it was not Shelmon who denied Fuller short-term disability benefits, and in fact he had no input into the denial of same, nor did Shelmon do anything to interfere with Fuller's application for long-term disability benefits." While this argument may be established by Shelmon's deposition testimony, his deposition testimony also arguably establishes that he was the author of correspondence regarding a denial of ERISA claims, may

have advised others regarding whether Fuller should continue to receive any ERISA benefits to which he was entitled and may have been involved in an effort to attempt to cause Fuller to forgo his ERISA claims.

Therefore, for the reasons stated herein and in this Court's previous Entry and Order (doc. #12), Sheldon's Motion To Allow Co-Counsel Pro Hac Vice is **OVERRULED**. Finally, the Clerk of Courts is hereby ordered to refund any fees that may have been provided in association with Shelmon's latest application for pro hac vice status in this case.

DONE and **ORDERED** in Dayton, Ohio this Twenty-Third day of July, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record